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August 5, 2022

VIA ELECTRONIC FILING

Attention: Filing Center
Public Utility Commission of Oregon
201 High Street SE, Suite 100
P.O. Box 1088
Salem, Oregon 97308-1088

Re: Docket UM 2032 – Investigation into the Treatment of Network Upgrade Costs for Qualifying Facilities

Attention Filing Center:

Attached for filing in the above-captioned docket is the Joint Utilities' Posthearing Brief.

Please contact this office with any questions.

Sincerely,

Alisha Till

Alisha Till
Paralegal

Attachment

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 2032

In the Matter of PUBLIC UTILITY COMMISSION OF OREGON, Investigation into the Treatment of Network Upgrade Costs for Qualifying Facilities.

JOINT UTILITIES' POSTHEARING BRIEF

August 5, 2022

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I. INTRODUCTION

The primary issue raised in this docket is who should be required to pay for Network Upgrades necessitated by a Qualifying Facility's (QF) interconnection: the QF or utility customers. As the Joint Utilities explained in their Prehearing Brief, the Commission should adopt Staff's recommendation to (1) reaffirm the Commission's current QF interconnection policies, which require QFs to obtain Network Resource Interconnection Services (NRIS) and presumptively allocate the costs caused by a QF's interconnection to the QF; and (2) evaluate the need for and the scope of a potential Phase II of this docket to address the Commission's "quantifiable system-wide benefits" standard.

A key issue illuminated in the parties' Prehearing Briefs is the challenge associated with implementing the Commission's "quantifiable systemwide benefits standard." That standard holds that a QF is presumptively responsible for the costs of its interconnection-driven Network Upgrades unless the QF can demonstrate that the Network Upgrades caused by its interconnection provide "quantifiable system-wide benefits."[1] If it can do so, the QF is eligible for refunds in the amount of the demonstrated benefit.[2] During the course of this proceeding, the Joint Utilities have made clear that they are aware of no methodology for quantifying, let alone allocating to specific grid users, the financial value of generalized grid benefits such as "increased capacity" or "increased reliability" from Network Upgrades made at random, QF-chosen locations on the transmission system. Consequently, the Joint Utilities have offered an alternative methodology, one that is logical, capable of implementation, and significantly benefits QFs. For their part, Staff,

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[1] *In re Pub. Util. Comm'n of Or. Investigation into Interconnection of PURPA Qualifying Facilities with Nameplate Capacity Larger than 20 Megawatts to a Pub. Util.'s Transmission or Distribution System*, Docket UM 1401, Order No. 10-132 at 3 (Apr. 7, 2010)

[2] Order No. 10-132 at 3.

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the Interconnection Customer Coalition (ICC), and NewSun criticize the Joint Utilities' proposal but offer no evidence that the Commission's test is workable. In fact, Staff concedes the test may be too difficult to implement and suggests the Commission may simply need to adopt a simplified sharing mechanism in Phase II—such as an automatic allocation of 75 percent of Network Upgrade costs to the QF, and 25 percent to the utility and its customers.

Given these challenges, and the lack of solutions in the parties' Prehearing Briefs, the Joint Utilities concede that Phase II of this proceeding may not be particularly helpful for devising a methodology for quantifying and allocating the financial benefits of QF interconnection-driven Network Upgrade costs. If the Commission wishes to further explore this issue in Phase II, the Joint Utilities agree with other parties that Phase II of this docket would benefit from Commission guidance on its quantifiable systemwide benefits standard. On the other hand, the Joint Utilities also believe the Commission could simply conclude that the standard is unworkable. In that event, the Joint Utilities recommend the Commission adopt the Joint Utilities' proposal to exempt QFs from cost responsibility for Network Upgrades identified in a utility's transmission plan or as necessary for a higher-queued service request.

Regardless of whether the Commission concludes this docket after Phase I or desires to further consider the quantifiable systemwide benefits standard in Phase II, the Joint Utilities would support investigating whether it is possible to implement a cost-sharing mechanism among QFs for certain interconnection costs—either in Phase II or in a separate docket. Sharing costs among interconnecting generators may be the best way to facilitate QF interconnections while maintaining customer indifference.

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II. ISSUE 1: QUALIFYING FACILITIES SHOULD BE RESPONSIBLE FOR THE COSTS CAUSED BY THEIR INTERCONNECTION

The Commission's current QF interconnection policies appropriately presume that interconnecting generators will bear the costs necessitated by their interconnection, including the costs of Network Upgrades.[3] By doing so, the Commission's policies are consistent with PURPA's customer indifference standard. They also provide a critical financial incentive for QFs and other generators to site their projects in economically efficient locations. Finally, allocating QF interconnection-driven Network Upgrade costs to QFs, rather than utility customers, ensures the Commission appropriately exercises its statutory duty to oversee customer rates to ensure they remain just and reasonable.

In this Posthearing Brief, after summarizing the parties' positions, the Joint Utilities first reiterate the critical role this Commission's existing policies play in protecting customers from unjust and unreasonable rates that could result from mandatory QF purchases and ask the Commission to reaffirm those policies. Second, the Joint Utilities explain why FERC's federal interconnection-cost policies do not and should not apply. Third, the Joint Utilities provide their proposed approach to allocating Network Upgrade costs and address the Commission's quantifiable systemwide benefits standard, responding to Staff's and ICC's initial recommendations for its implementation and seeking preliminary guidance on its interpretation. Fourth, the Joint Utilities ask the Commission to clarify whether and how Phase II will address the Commission's quantifiable systemwide benefits standard. And finally, the Joint Utilities explain why the Commission's current cost-allocation policies are fair to QFs.

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[3] As Joint Utilities' Transmission Witnesses explain, the Commission's QF Large Generator Interconnection Procedures (QF-LGIP) defines Network Upgrades as upgrades at or beyond the point of interconnection with a transmission provider's transmission system. *See* Order No. 10-132, Appendix A (QF-LGIP) at 11.

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A. Parties' Positions

In its Prehearing Brief, Staff provides the following overview of the parties' opinions on Issue 1:

> [The parties] all appear to base their positions regarding cost responsibility on the same tenet: *costs of Network Upgrades should be allocated to the beneficiaries of the Network Upgrades*. However, these parties differ on who the beneficiaries of the Network Upgrades are or are likely to be and differ on the method the Commission should use to allocate the costs.[4]

This summary is generally accurate. However, the Joint Utilities clarify their position that, as a matter of law, any QF-driven costs allocated to retail customers *must* be just and reasonable and *must* comport with "the limitation of the avoided cost rate."[5] Any costs that exceed these ceilings must be allocated to QFs.

In Prehearing Briefs, the ICC, NewSun, and Staff focus largely on the Commission's quantifiable systemwide benefits standard and whether or how to "credit" QFs for the benefits provided by their Network Upgrade costs. The parties suggest the Commission import *federal law* into Oregon. Each party's specific position is as follows, in order from most deferential to federal law to least:

> NewSun. NewSun argues this Commission should simply import federal cost-allocation policies to Oregon. NewSun asserts that Network Upgrades provide benefits to retail customers commensurate with their costs and should be recovered in retail customer rates—regardless of whether a QF drives Network Upgrades of $50,000 or $50 million.[6]
>
> ICC. ICC argues that this Commission should adopt the federal presumption that Network Upgrades benefit retail customers in an amount commensurate with their costs. Under ICC's formulation, however, utilities would bear the burden of

[4] Staff Prehearing Brief at 7 (emphasis added) (June 3, 2022).
[5] *See* Joint Utilities' Prehearing Brief at 20-21 (June 3, 2022) (citing Order No. 10-132 at 3-4) (noting that Congress, in passing PURPA, did not intend for retail customers to subsidize QFs; moreover, that this Commission's duty to retail customers requires it to ensure that the cost for QF power is just and reasonable to customers and commensurate with the costs the Commission would deem prudent for utility acquisitions).
[6] NewSun Prehearing Brief at 3-9 (June 3, 2022).

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demonstrating that Network Upgrades driven by a QF do *not* benefit retail customers in an amount commensurate with their costs.[7]

Staff. Staff does not necessarily recommend that the Commission modify its current policies, per se, but cites to FERC's federal cost-allocation policy for the proposition that Network Upgrade costs *surely* provide some benefits to retail customers, and recommends the Commission investigate in Phase II how such benefits could be quantified so that QFs can be properly compensated for those benefits.[8] In response to Joint Utility testimony explaining that there is no known methodology for quantifying the retail customer benefits of Network Upgrades, Staff acknowledges the challenge and suggests that a simplified sharing mechanism may be an appropriate alternative.[9]

Joint Utilities. The Joint Utilities argue that FERC's federal presumptions and cost-allocation policies hold no sway in this proceeding. The Commission is legally required to follow PURPA and state law, not federal interconnection law. No party has provided any factual or state-law basis on which to presume or determine that specific QF-driven Network Upgrades that are not already required by other service requests or a utility's long-term transmission plan benefit retail customers in any amount.[10]

Alliance of Western Energy Consumers (AWEC). AWEC argues that QFs should be responsible for all Network Upgrade costs driven by their interconnection, with no reimbursement. As AWEC argues, this is a reasonable interpretation of PURPA's standard for allocation of interconnection costs in 18 C.F.R. 292.306 and is also consistent with the customer indifference standard.[11]

B. Requiring QFs to Pay for Their Interconnection-Driven Network Upgrades, as this Commission's Existing Policies Do, Is Consistent with PURPA and Oregon Law and Is Fair to QFs.

NewSun and the ICC argue that PURPA requires the Commission to "encourage" the development of QFs,[12] and that QF projects are difficult to develop under the Commission's current interconnection cost-allocation policies because they require QFs to find economically

[7] ICC Prehearing Brief at 7-10 (June 3, 2022).
[8] Staff Prehearing Brief at 9-10. Staff also cites to FERC's pending Notice of Proposed Rulemaking for this same proposition.
[9] Staff Prehearing Brief at 12-13.
[10] Joint Utilities' Prehearing Brief at 23-25, 29.
[11] AWEC Prehearing Brief at 5-8 (June 3, 2022).
[12] NewSun Prehearing Brief at 13; ICC/200, Lowe/8.

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efficient locations for interconnection.[13] However, this interconnection efficiency challenge is not only mandated by PURPA, it is also a reality for all QF and non-QF developers alike.

The Joint Utilities have emphasized PURPA's customer indifference mandate throughout these proceedings because it places a limit on a state commission's obligation—on its *authority*—to "encourage" QF development.[14] A state regulatory agency is required to encourage the development of PURPA projects, but as a statutory matter, that simply means that the state regulatory agency must give QFs a fair opportunity to sell power to a utility at the utility's avoided cost—that is, without subsidization by retail customers. As FERC has explained:

> PURPA requires an electric utility to purchase power from a QF, but only if the QF sells at a price no higher than the cost the utility would have incurred for the power if it had not purchased the QF's energy and/or capacity, i.e. would have generated itself or purchased from another source.[15]

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[13] ICC Prehearing Brief at 17.

[14] 16 U.S.C. § 824a-3(b) ("No such rule prescribed under subsection (a) shall provide for a rate which exceeds the incremental cost to the electric utility of alternative electric energy."); Joint Explanatory Statement of the Committee of Conference, H.R. Rep. No. 95-1750, 95th Cong. 2nd Sess. at *98 (1978) (PURPA was "not intended to require the ratepayers of a utility to subsidize cogenerators or small power [producers]."); 18 C.F.R. § 292.304(a)(2) ("Nothing in this subpart requires any electric utility to pay more than the avoided costs for purchases."); 18 C.F.R. § 292.101(b)(6) (defining "avoided costs" as "the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility..., such utility would generate itself or purchase from another source."); *Small Power Production and Cogeneration Facilities; Regulations Implementing Section 210 of the Pub. Util. Regulatory Policies Act of 1978*, 45 Fed. Reg. 12,214, 12,219 (1980) (Order No. 69) ("Under the definition of 'avoided costs' in this section, the purchasing utility must be in the same financial position it would have been had it not purchased the qualifying facility's output."). *See also, e.g.*, *S. Cal. Edison Co. San Diego Gas & Elec. Co.*, 71 FERC ¶ 61,269, 62,079-80 (1995); *see also Portland Gen. Elec. Co. v. Pac. Nw. Solar, LLC*, Docket UM 1894, Order No. 18-025 at 7 (Jan. 25, 2018) ("[O]ne critical feature of our implementation of PURPA, including (but not limited to) the terms and conditions of our regulated PURPA contracts, is the need to ensure that ratepayers remain financially indifferent to QF development."). When implementing PURPA, states are bound by PURPA's mandates and have no authority to exceed its boundaries. Indeed, without PURPA, states would have no authority to set prices for any wholesale sale of power from a generator to a regulated utility, nor to dictate contract terms or conditions for such transactions. Both would fall under FERC's exclusive jurisdiction. PURPA allows states to exercise authority over these issues, but subject to the condition that states exercise that authority consistent with PURPA—including its customer indifference mandate. *See, e.g.*, *S. Cal. Edison Co.*, 71 FERC ¶ 61,269, 62,079-62,081. While states may take many types of actions to encourage renewable development beyond PURPA's limitations to encourage development of renewable resources, those actions must be founded in state law (such as providing tax incentives, mandating construction of specific types of generation, passing a carbon tax, etc. through state legislation), rather than PURPA. *Id.* Given this customer indifference mandate, states lack authority to implement PURPA in a manner that exposes customers to additional cost, risk, or harm as a consequence of the purchase of QF power when compared to the utility's alternatives.

[15] *S. Cal. Edison Co. San Diego Gas & Elec. Co.*, 71 FERC ¶ 61,269, 62,079-80.

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In short, the overall cost of QF power—including any interconnection costs—can be no higher than the overall cost of non-QF utility-acquired or -generated power.

Moreover, encouraging only economically efficient QF development is consistent with regulated utilities' obligation to ensure they invest in *prudent, economically efficient generation* to serve customer load, inclusive of Network Upgrades. Retail customers do not pay for uneconomic, unreasonable, or inefficient generation from non-QFs; nor should they be required to pay for uneconomic, unreasonable, or inefficient generation from QFs. Allegations of a double standard are inaccurate.

1. Allocating QF-driven interconnection costs to the QF that caused them is critical for protecting retail customers.

No party contests the fact that a generator located in a favorable location can enjoy economically favorable interconnection costs. Nor does any party dispute that interstate transmission systems across the West are riddled with constraints that make interconnection costs economically unfavorable when a generator sites in an unfavorable location. As the Joint Utilities have testified, a generator sited in an unfavorable location can easily trigger tens of millions of dollars in interconnection-driven Network Upgrades to enable that generation to serve load.[16] Staff similarly testified that since 2014, PacifiCorp has identified over $500 million in Network Upgrade costs for Oregon QFs and Idaho Power has identified roughly $50 million.[17] The rate impact of these Network Upgrades is significant—for Idaho Power, the Network Upgrades assigned to 215 MW of Oregon QFs between 2014 and 2019 would have increased transmission rates by nearly seven percent absent the Commission's current cost-allocation policy; for PacifiCorp, the Network

[16] In a worst-case scenario, necessary upgrades can cost hundreds of millions of dollars.
[17] Staff/100, Moore/10-11.

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Upgrades for 550 MW of Oregon QFs between 2014 and 2019 would have increased Oregon retail rates by nearly 10 percent absent the Commission's current cost-allocation policy.[18]

Utilities are cognizant of Network Upgrade costs when they make decisions about what generation to acquire to serve customer load, and they run the risk of disallowance if they elect to purchase generation that triggers significant Network Upgrade costs.[19] Utilities therefore take steps to ensure the generation they elect to purchase is prudent on an all-in basis, inclusive of Network Upgrade costs.[20] This due diligence, combined with the Commission's prudence review, ensures that utility-selected generation costs are prudent on an all-in basis.

When it comes to PURPA, however, utilities cannot exercise their own authority to protect customers from unreasonable or uneconomic costs. Instead, a QF can force a utility to purchase power wherever the QF decides, even in unfavorable and uneconomic locations that require costly Network Upgrades to make QF power useful for retail customers.[21] When it comes to PURPA, then, only this Commission's PURPA policies protect retail customers from unlimited exposure to QF-driven Network Upgrade costs. The Commission's current policies do so by (1) requiring a QF to obtain NRIS interconnection so the QF's deliverability driven Network Upgrade costs can be known during the interconnection process;[22] and (2) allocating those costs to the QF in the interconnection agreement. Without these policies, utilities would be forced to purchase QF power and pay for whatever Network Upgrades were necessitated by the QF's siting location, regardless

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[18] Staff/100, Moore/24.
[19] Joint Utilities' Prehearing Brief at 16-17.
[20] *See* Joint Utilities/300, Wilding-Macfarlane-Williams/38.
[21] Staff/100, Moore/11, 24 (discussing costs of Network Upgrades identified by the utilities and the potential rate impacts).
[22] NRIS provides a good estimate of an interconnecting generator's interconnection costs; additional costs may be identified later in transmission service studies when the purchasing utility must acquire transmission to deliver that generation to customers, but NRIS is the only interconnection type that identifies delivery constraints. *See, e.g,* Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/16-18; Staff Prehearing Brief at 14; Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/33.

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of their magnitude. As a result, the burden of ensuring customers are not required to subsidize QF development rests entirely on the Commission's PURPA policies.

The Commission has historically effectuated this customer protection in an elegant and efficient way. A state commission has authority to assess QF interconnection costs either as part of the avoided cost price or through the interconnection process to ensure customers pay no more for QF power than they would from another source. In Oregon, the Commission has long required a purchasing utility to address the costs of QF interconnection as part of the generator interconnection process, rather than as an adjustment to the avoided cost rates the utility must pay for the QF's output through a power purchase agreement (PPA).[23] This practical solution allows a QF to sign a PPA with an administratively determined avoided cost rate, while also allowing for a *site-specific evaluation of interconnection costs* for each individual QF—costs that vary widely by location[24]—to ensure the cost of acquiring and using that QF power is accurately captured and allocated to the QF.[25]

By allocating QF costs in this manner, the Commission ensures that customers remain financially indifferent to the purchase of QF power, provides a critical financial incentive for economically efficient QF development, and appropriately exercises its statutory duty to ensure retail customer rates remain just and reasonable.

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[23] *In re Pub. Util. Comm'n of Or. Staff's Investigation Relating to Elec. Util. Purchases from Qualifying Facilities*, Docket UM 1129, Order No. 07-360 at 26-27, Appendix A at 4 (Aug. 20, 2007) ("The utility should not adjust avoided cost rates for any distribution or transmission system upgrades needed to accept QF power. Such costs should be separately charged [to the generator] as part of the interconnection process.").
[24] Joint Utilities/300, Wilding-Macfarlane-Williams/7-8.
[25] Joint Utilities/300, Wilding-Macfarlane-Williams/7-8.

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2. Staff's interpretation of 18 C.F.R. 292.306 is incorrect.

While Staff agrees that Oregon retail customers should not subsidize QF development and seems to acknowledge that PURPA's customer indifference standard thus applies to QF costs inclusive of interconnection costs,[26] Staff also appears to argue that the Commission's discretion to allocate interconnection costs under 18 C.F.R. 292.306 is *not* limited by the customer-indifference standard.[27] 18 C.F.R. 292.306 requires QFs to pay any interconnection costs assessed by the state and gives states authority to determine the method of payment. FERC's definition of "interconnection costs" states that such costs are those "in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations," and that "[i]nterconnection costs do not include any costs included in the calculation of avoided costs."[28] Staff asserts that "[i]f FERC intended to prevent the Commission from allocating to utilities the costs of Network Upgrades that exceeded the utility's own avoided interconnection costs, there would be no need to give the States discretion over the allocation of these costs."[29]

First, Staff's argument is missing context that is relevant to interpretation of FERC's PURPA regulations. The regulations were promulgated in 1980, prior to FERC's implementation of transmission open access. In 1980, utilities were not obligated to interconnect any third parties.

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[26] Staff's Prehearing Brief at 10-12; Staff/100, Moore/18 (noting that customers should be indifferent to the purchase of QF power but arguing that QFs may not be appropriately compensated for a utility's avoided Network Upgrade costs in current avoided cost calculations or for the benefits provided by QF-driven Network Upgrades).

[27] Staff's Prehearing Brief at 10-12.

[28] 18 C.F.R. § 292.101(7).

[29] Staff Prehearing Brief at 11 (citing 18 C.F.R. § 292.306). As an initial matter, Staff's argument appears to be based, at least in part, on a misunderstanding of the Joint Utilities' position. Staff refers to "the Joint Utilities' assumption that the ratepayer indifference standard prevents the Commission from allocating Network Upgrades to the host utility." Staff counters that customer indifference is not violated when retail customers pay for benefits to the transmission system. Staff's Prehearing Brief at 12. As discussed below, the Joint Utilities agree with Staff that, in theory, customers could receive a benefit from Network Upgrades that is commensurate with the cost of the upgrade such that customers could pay for the Network Upgrades and still remain indifferent. As the Joint Utilities have noted, however, it is unclear how this could be accomplished, as a practical matter. The Joint Utilities have thus proposed an alternative that is similar to the way the Commission reviews *utilities*' Network Upgrades for recovery in rates.

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FERC had not mandated Open Access Transmission Tariffs or any of the interconnection procedures or mandates that come with them.[30] As a result, neither FERC nor state regulatory authorities had any blueprint for what to charge for interconnection, no engineering study process to determine the needed facilities, nor any other standardized processes. In Order No. 69, which discussed FERC's proposed PURPA regulations, FERC identified some cost categories for QF interconnection cost allocation it deemed reasonable (and some that it did not),[31] but ultimately concluded it was up to the states to implement the rule. In this context, the state discretion written into the rule does not suggest that retail customers should be required to pay for a QF's interconnection; rather, it suggests FERC was leaving room for the states to decide how a utility should charge a third party for generator interconnection service, since there were no established standards.[32] When adopting its current cost-allocation policies, the Commission appropriately relied on (now) standard interconnection study processes while also recognizing that its policies must adhere to the "limitation of the avoided cost rate," an overarching requirement of PURPA.[33]

FERC's regulations, and the discretion they provide, also make room for a state regulatory authority to assess some QF costs in a PPA and others separately, through the interconnection process, as Oregon currently does.[34] Thus, the PPA price for a QF sited in a constrained location

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[30] *See, e.g., Transmission Access Policy Study Grp. v. FERC*, 225 F3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 US 1 (2002) (describing FERC's Order No. 888 and its impact on transmission access). QFs gained access to interconnection not through FERC's open access policies, but through PURPA, an earlier and different regulatory scheme. *See, e.g., New York v. FERC*, 535 US at 9.

[31] *See* Order No. 69 at 12,230.

[32] Thus, FERC left this question to the states for the same reason it allows a state commission to set a QF's avoided cost price or develop a QF PPA: because PURPA gives implementation to the states, not to FERC. Though PURPA is a federal statute whose administration lies with FERC, "implementation" of the statute is left in large measure to the states. *See* 16 U.S.C. § 824a-3(f); 18 CFR § 292.401.

[33] Order No. 10-132 at 4.

[34] *See Pioneer Wind Park I, LLC*, 145 FERC ¶ 61,215, at P 38 n.73 (2013) (*Pioneer Wind*) ("[T]ransmission or distribution costs directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations may be accounted for in the determination of avoided costs if they have not been separately assessed as interconnection costs.").

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could be adjusted downward to reflect the diminished value of a PPA that requires a utility to make Network Upgrades before it can deliver the generation to load, or, alternatively, the QF could receive a more generic PPA price, while the incremental QF-driven interconnection costs could be allocated to the QF separately through the interconnection process, as FERC regulations anticipate. In short, FERC commits the allocation of interconnection costs to state discretion so that states can develop and apply their own PURPA policies. These can be implemented any number of ways, so long as those policies do not violate "the limitation of the avoided cost rate"[35] or require retail customers to subsidize QF development.

Importantly, FERC's regulations assume QFs will pay for their own interconnection costs, not retail customers.[36] The words of the regulation and FERC's Order 69 make this clear, stating, for example that,

> This definition [of interconnection costs] is designed to provide the State regulatory authorities and nonregulated electric utilities with the flexibility *to ensure that all costs* which are shown to be reasonably incurred by the electric utility as a result of interconnection with the qualifying facility *will be considered* as part of the obligation of the qualifying facility under § 292.306.[37]

Indeed, a key question raised during the PURPA rulemaking process was not *whether* QFs would be responsible to pay for their interconnection costs (it was assumed they would), but *when* they

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[35] Order No. 10-132 at 3-4 ("[The] argument that FERC has long held that Network Upgrades provide system wide benefits is not persuasive to this point. None of the authorities cited [by proponents of FERC's policy] are related to facilities governed by PURPA and thus none faced the limitation of the avoided cost rate.").

[36] FERC has clarified multiple times that QFs are required to pay for the cost of interconnection facilities. Specifically, FERC regulations "require electric utilities to build any interconnection facilities necessary to meet their obligation to purchase power from qualifying facilities, [and] qualifying facilities are required to pay the cost of the interconnection facilities." *Bechtel Civil, Inc.,* 43 FERC P 61,396, 62,011 (1988). In that case, the Commission went on to reiterate that the state commissions have the authority to decide the appropriate interconnection costs, but that the QF still must pay. *Id.* In a more recent case, the Commission stated that "electric utilities are required to build any interconnection facilities necessary to meet their obligation to purchase power from QFs, although the QFs are required to pay the cost of the interconnection facilities, which are determined by the state regulatory authority . . . ." *Dewey B. Smith*, 62 FERC P 61,264, 62,768 (1993).

[37] Order No. 69 at 12,217 (emphasis added).

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would have to pay those costs—all at once, or over time.[38]

C. The Commission Should Conclude, in this Phase of the Proceeding, that FERC's Federal Interconnection Cost-Allocation Policies Do Not, and Should Not, Apply to State-Jurisdictional QFs.

NewSun asks this Commission to import FERC's cost-allocation policy into Oregon.[39] FERC's policy, developed under the Federal Power Act (FPA),[40] includes a presumption that upgrades to the interstate transmission system (including Network Upgrades) benefit transmission customers. According to NewSun, Network Upgrades should be paid for by all customers because they benefit all users and increase the value of the transmission system.[41] NewSun argues that such benefits include increased infrastructure for additional renewable projects, increased load-serving capability, better resiliency, and congestion relief.[42] Adoption of NewSun's proposal would be devastating to Oregon customers.

1. This Commission and FERC have declined to apply federal cost-allocation policies to QF interconnection costs, and NewSun provides no new rationale for revisiting this decision.

FERC policy, which is applicable to FERC-jurisdictional interconnection customers, requires an interconnection customer to up-front fund the costs of its Network Upgrades, which are later subject to reimbursement to the interconnection customer.[43] As the Joint Utilities have noted, this particular FERC policy is grounded in the statutory goals of the FPA, not PURPA or

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[38] Order No. 69 at 12,230 (commenting on proposed 18 C.F.R. § 292.306 and stating, "Numerous comments raised the point that the proposed rule did not address the manner in which electric utilities would be reimbursed. Potential owners and developers of qualifying facilities recommended that the costs be amortized on a reasonable basis, because paying a large lump sum payment would be a considerable obstacle to the program. Electric utilities generally preferred payment up front., although several commenters indicated that amortization might be acceptable for credit-worthy facilities. The Commission believes that the manner of reimbursement (which may include amortization over a reasonable period of time) is best left to the State regulatory authorities and nonregulated utilities.").
[39] NewSun Prehearing Brief at 3.
[40] Joint Utilities' Prehearing Brief at 19-20.
[41] NewSun/100, Rahman/10-11; NewSun Prehearing Brief at 3.
[42] NewSun/200, Andrus/15; NewSun/400, Andrus/9-15; NewSun/500, Boissevain/3- 11.
[43] *See* Order 10-132 at 2 (explaining FERC's policy).

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state law, making it inapplicable to QFs.[44] As the Joint Utilities have explained, this Commission may be interested in the goals of the FPA, such as increased wholesale competition, but FERC is duty-bound to honor those statutory goals.[45] For its part, the Commission is obligated to protect Oregon customers from unjust and unreasonable rates and to honor PURPA's customer indifference mandate.[46] FERC and state regulatory agencies are different governmental bodies with different duties. Just as FERC presumably has no interest in protecting Oregon customers above any other state customers, this Commission presumably has no interest in protecting other state customers above Oregon customers.

Indeed, the Commission entertained and rejected arguments from QF parties in 2009 that FERC's federal cost-allocation policies should apply to Oregon customers.[47] The Commission made clear that PURPA and state law require QFs to pay for their own interconnection costs to ensure customers are not forced to subsidize QF development.[48] The Commission made the

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[44] As the DC Circuit noted, "[FERC's] rationale for crediting network upgrades, based on a less cramped view of what constitutes a 'benefit,' reflects its policy determination that a competitive transmission system, with barriers to entry removed or reduced, is in the public interest." *Entergy Services, Inc. v. FERC*, 319 F3d 536, 543-44 (D.C. Cir. 2003). The court concluded that "[FERC] has reasonably explained that its crediting pricing policy avoids both gold plating and less favorable price signals such that the enlarged transmission system, which it views as a public good, can function reliably and continue to expand." *Id.* at 544. While an enlarged transmission system has long been considered a "public good" for purpose of wholesale interstate competition, state commissions have typically scrutinized discretionary transmission system investments by regulated utilities for prudence, rather than presuming they are eligible for retail cost recovery.

[45] *See, e.g.,* Joint Utilities/200, Wilding-Macfarlane-Williams/11 (noting that FERC is governed by the FPA; this Commission by Oregon law).

[46] *See, e.g.,* Joint Utilities/200, Wilding-Macfarlane-Williams/13. The Oregon Legislature has delegated to the Commission broad rate-making authority to protect utility customers. *American Can Co. v. Lobdell*, 55 Or App 451 (1982); *Cascade Nat. Gas Corp. v. Davis*, 28 Or App 621 (1977). In the exercise of this authority, the Commission requires utility rates to be fair, just and reasonable. *See e.g., In re Pac. Power & Light Co., Request for a Gen. Rate Increase in the Co.'s Or. Annual Revenues*, Docket UE 170, Order No. 05-1050 at 4 (Sept. 28, 2005); *In re PacifiCorp's Proposal to Restructure and Reprice its Services in Accordance with the Provisions of SB 1149*, Docket UE 116, Order No. 01-787 at 5 (Sept. 7, 2001). This standard, commonly referred to as the "just and reasonable standard," is derived from numerous statutory provisions. ORS 756.040 provides that the Commission is obligated to protect utility customers from "unjust and unreasonable exactions and practices and to obtain for them adequate service at fair and reasonable rates." Similarly, ORS 757.210(1) provides that the Commission may conduct a hearing on any rate request to determine whether "the rate or schedule is fair, just and reasonable."

[47] *See* Order 10-132 at 3-4.

[48] Order 10-132 at 3-4.

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following assertion, which is still true today:

> [The] argument that FERC has long held that Network Upgrades provide system wide benefits is not persuasive to this point. None of the authorities cited [by proponents of FERC's policy] are related to facilities governed by PURPA and thus none faced the limitation of the avoided cost rate.[49]

For its part, FERC has issued several orders over the past several decades addressing federal interconnection policies, yet it has never applied its cost-allocation policies to state-jurisdictional QFs.[50] In fact, as the Joint Utilities noted in their Prehearing Brief, just last year, FERC refused to entertain arguments from QFs arguing that FERC cost-allocation policies should apply to QFs.[51]

Moreover, FERC has recognized the different cost-allocation treatment afforded state-jurisdictional QFs and FERC-jurisdictional generators. In 2012, FERC accepted PacifiCorp's request to discontinue paying a small generator refund credits for its interconnection-service upgrade after the generator switched from a FERC-jurisdictional interconnection agreement to a state-jurisdictional QF interconnection agreement.[52] FERC's order noted that once the QF switched to a state-jurisdictional interconnection, PacifiCorp no longer had an obligation to refund the QF for Network Upgrades through FERC transmission credits.[53] FERC accepted a repayment agreement reflecting the fact that, consistent with Oregon policy, the QF's Network Upgrades should have been directly assigned to the QF.[54] In other words, FERC itself has not applied

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[49] Order No. 10-132 at 3-4.
[50] *See, e.g., Standardization of Generator Interconnection Agreements and Procedures,* 104 FERC ¶ 61,103 at P 813 (2003) (Order No. 2003).
[51] *In re Beaver Creek Wind, et al.,* Petition for Enforcement and Declaratory Ruling, Dkts. EL21-86-000, QF20-1303-000, QF20-1304-000 (June 24, 2021); Joint Utilities' Prehearing Brief at 7-8. In *Beaver Creek*, QF developers challenged the Montana Public Service Commission's policy of assigning network upgrades to QFs without refund. The QF developers asked FERC to conclude that the Montana Commission's policy violated PURPA because the state policy was different from FERC's interconnection policies and principles established in Orders 2003 and 2006. After extensive briefing on the issue, including from the majority of the commenters in this docket, FERC rejected the request.
[52] *PacifiCorp*, FERC Letter Order, Docket No. ER 12-2223 (Sept. 6, 2012).
[53] *PacifiCorp*, FERC Letter Order, Docket No. ER 12-2223.
[54] *See PacifiCorp*, FERC Letter Order, Docket No. ER 12-2223.

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FERC's interconnection cost-allocation policies to state-jurisdictional QFs, but instead allowed PacifiCorp to allocate the costs of Network Upgrades to the state-jurisdictional QF that caused them.

Because neither FERC nor this Commission has articulated a rationale for applying federal cost-allocation policy to QFs, the Joint Utilities look to NewSun for a rationale. NewSun provides nothing new. NewSun appears to concede Network Upgrades can cost tens or even hundreds of millions of dollars.[55] Yet NewSun simply argues that Network Upgrades provide generalized benefits to transmission system users that justify including their costs in customer rates.[56]

2. The Commission does not assume that any Network Upgrade, made anywhere on a transmission system, provides benefits commensurate with its cost; moreover, doing so would result in unjust and unreasonable rates.

In support of its argument that retail customers should pay for QF Network Upgrades, NewSun also points to utility rate cases, where utilities have sought cost recovery for transmission system upgrades on the theory that such upgrades do, in fact, bring customer benefits that justify their inclusion of rates.[57] While NewSun's arguments may seem appealing on a superficial level, they fall apart upon examination, and their adoption would upend responsible state-regulatory cost-recovery policy. NewSun asks the Commission to adopt a policy that would require retail customers to pay for Network Upgrades driven by a QF no matter where they are, or how expensive they are.[58] Yet, as Staff has noted, Network Upgrade costs for a single QF "have the potential to

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[55] NewSun Prehearing Brief at 11.
[56] NewSun Prehearing Brief at 5-6.
[57] NewSun Prehearing Brief at 5-6.
[58] Under the Joint Utilities' recommended policy, a QF would be free from the obligation to pay for any Network Upgrades already identified in the utilities' studies as necessary for reliability. In other words, QFs would not need to pay for the cost of Network Upgrades that federally mandated studies have demonstrated to be prudent.

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exceed hundreds of millions of dollars."[59] NewSun has not identified a sound basis on which to argue that any and all QF-interconnection-driven Network Upgrades should be deemed prudent and recoverable from retail customers in rates.

There are countless upgrades that could theoretically improve the operational characteristics of the transmission system in some generalized fashion, but they are not *all* a prudent use of customer dollars.[60] Transmission planners engage in transmission system planning precisely because all upgrades are not created equal, and therefore, not all upgrades warrant identification in a utility's transmission plan or study, much less inclusion in rates.[61] Indeed, this Commission requires utilities to make prudent decisions about which upgrades should be prioritized for system reliability or to serve retail load and to demonstrate the rationale for that prioritization. The idea that *any* Network Upgrade *anywhere* is inherently worthy of inclusion in rates is inconsistent with this Commission's exercise of its duties to protect retail customers.[62]

NewSun argues that utilities get cost recovery for investments in reliability, so QFs should get cost recovery for the Network Upgrades triggered by their interconnection, because those Network Upgrades presumably create reliability benefits too.[63] But transmission providers do not decide where to make system reliability investments by throwing darts at a system map.[64] Rather, transmission providers conduct multiple specific, federally mandated system reliability studies each year that inform prudent decisions about prioritization of system investments needed to maintain system reliability.[65] Transmission providers do not engage in ad hoc or unsupported

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[59] Staff/200, Moore/9.
[60] Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/19.
[61] Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/11.
[62] For example, a multi-million-dollar rebuild of a radial line needed to interconnect a QF in rural Oregon may provide very little or no benefit to other grid users whatsoever. Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/23.
[63] NewSun Prehearing Brief at 5-6.
[64] *See* Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/10.
[65] Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/17.

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decision-making about where to spend ratepayer dollars,[66] nor would they expect cost recovery if they did. NewSun's policy proposal is completely inconsistent with this Commission's statutory duties.

NewSun also argues that QF interconnection-driven Network Upgrades increase system *capacity,* another purported benefit that justifies including their cost in retail rates.[67] The Joint Utilities would reiterate that there are an endless number of investments that could be made anywhere on a utility's transmission to increase capacity. The idea that the Commission would presume every such investment to be recoverable in rates, no matter where it is or what it costs, is inconsistent with this Commission's regulatory obligations.[68] If the Commission adopts a new policy stating that any and all Network Upgrade costs should be included in retail rates because they increase system capacity, the potential for investment in capacity upgrades is endless.[69]

NewSun is also correct that utilities make transmission system investments needed *to serve customer load* and recover the costs of such investments in rates.[70] But utilities do not decide to make these investments by throwing darts at system map, either. Unlike reliability investments, which fall to a utility's transmission function, the obligation to identify and purchase least-cost, least-risk resources to serve customers falls to the utility's integrated resource plan (IRP) and resource acquisition groups.[71] The Commission's IRP process and utilities' requests for proposals (RFPs) help utilities identify the least-cost, least-risk resources to serve customers. As the Joint Utilities have repeatedly noted, utility resource acquisition groups scrutinize the all-in costs of

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[66] Other investments are made to accommodate FERC-jurisdictional requests from third parties over which the Commission has no authority.
[67] NewSun Prehearing Brief at 6.
[68] Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/12-13.
[69] This same analysis applies to other generalized benefits cited by NewSun, including resilience, additional interconnection capacity (to the extent it even exists), etc.
[70] NewSun Prehearing Brief at 6.
[71] Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/10, 20, 24.

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potential resources—including Network Upgrade costs—to ensure the resources chosen by the utility are prudent. Projects with unreasonable Network Upgrade costs that render a project imprudent are rejected.[72]

Moreover, as a matter of regulatory consistency, if the Commission agrees with NewSun that Network Upgrades should automatically be deemed prudent because of the presumptive benefits they bring to retail customers, that factual presumption should apply to any interconnection customer, including a utility's merchant function.[73] If a QF's interconnection-driven Network Upgrades are prudent as a matter of policy, anyone's Network Upgrades should be. Either Network Upgrades automatically benefit retail customers, or they do not. If the Commission adopts NewSun's recommendation to presume an automatic benefit, then utilities would presumably be free to dispense with the step of scrutinizing potential Network Upgrade costs of competitive resources, because projects with similar pricing terms but wildly different Network Upgrade costs would simply be seen as equivalent. Moreover, cost-recovery challenges associated with building new regional transmission lines for load service would be greatly diminished, as utilities would be able to build new transmission lines with the comfort of knowing that this Commission has adopted FERC's presumption that, despite their costs, such lines benefit all system users and should be recoverable in rates.[74]

In sum, NewSun's recommendation is inappropriate, unworkable, and inconsistent with the Commission's obligation to ensure that Oregon retail rates are fair, just, and reasonable. There

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[72] Joint Utilities/300, Wilding-Macfarlane-Williams/25.
[73] Idaho Power's functional separation is different than PacifiCorp's and PGE's in that Idaho Power has a transmission, merchant, and load service function. For purposes of this brief, Idaho Power's load service function is comparable to PacifiCorp's and PGE's merchant functions. Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/22 n.27.
[74] To be clear, if any major transmission investments should be recoverable in rates, it should be those investments identified through FERC's mandatory transmission planning process, which, unlike the QFs' proposal, is designed to identify priority transmission system investments.

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is no sound basis on which to presume that Network Upgrade costs incurred due to a QF's siting decision—which "have the potential to exceed hundreds of millions of dollars"[75]—create benefits that flow exclusively to Oregon retail customers or that their benefits have any relation to their cost. Adopting NewSun's proposal would incentivize imprudent and unreasonable investments—a result the Joint Utilities do not understand this Commission to have ever endorsed and its duty to Oregon customers prohibits it from doing so now. Because NewSun has not explained why FERC cost-allocation policy should be adopted as state regulatory policy, the Commission should conclude, in this phase of the proceeding, that federal cost-allocation policy does not apply in Oregon.

D. The Joint Utilities' Proposal is the Only Fair and Workable Standard Articulated to Date, but in the Event the Commission Wishes to Explore the Quantifiable Systemwide Benefits Test Further, the Commission Should Provide Guidance in this Phase and Order Parties to Address Its Implementation in Phase II.

For their part, Staff and ICC both lean on FERC's statements about the generalized benefits of transmission system investments to argue that QFs should be compensated for *some* sort of value attributed to their Network Upgrades, even if it is not a pass-through of the full cost. Neither Staff nor ICC propose a method for identifying or quantifying such values. Conceptually, the Joint Utilities do not disagree with the concept that, if a QF were able to demonstrate that the Network Upgrades triggered by its interconnection provided quantifiable financial benefits to retail customers, the benefits of those upgrades could make retail customers indifferent to the purchase

[75] Staff/200, Moore/9.

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of QF power in the amount of the demonstrated benefit, and the Joint Utilities have stated as much.[76] The challenge is in the implementation.

Staff generally supports the Commission's existing policies, which make a QF responsible for the cost of the Network Upgrades required by its interconnection to the extent those costs exceed a utility's avoided cost or the value of any "quantifiable system-wide benefits" created by the Network Upgrades.[77] This principle, Staff explains, "is important both for conforming to PURPA and for protecting ratepayers from potentially significant costs."[78] The Joint Utilities agree. But the Joint Utilities and Staff appear to disagree regarding the proper interpretation of the Commission's standard and as to whether there is a workable method for implementing that standard in a way that mathematically calculates specific dollar benefits and allocates them to specific parties. Guidance from the Commission regarding these two issues appears to be critical to resolving the cost-allocation issue presented in this docket.

The ICC also seems to agree that a QF should pay the costs caused by its interconnection unless the resulting Network Upgrades provide quantifiable systemwide benefits.[79] However, the ICC asks the Commission to modify its existing standard by inverting the burden of proof such that utilities, not QFs, must demonstrate that QF-driven Network Upgrades *fail to provide* benefits commensurate with their costs.[80] Although it is informative that the ICC seems to agree in principle that retail customers should not be made to subsidize any and all QF Network Upgrades,

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[76] As the Joint Utilities have noted, because utility's avoided cost represents an overall cap on the costs associated with the purchase of QF power that may be passed through to retail customers, any state regulatory definition of "system-wide benefits" that provides for QF reimbursement must ensure that the overall cost of QF power does not exceed the utility's avoided cost, even with that reimbursement.
[77] Staff/100, Moore/15 (citing Order No. 10-132 at 3); Joint Utilities/301, Wilding-Macfarlane-Williams/36, 43 (Staff Response to PGE DR 4, Staff Response to PacifiCorp DR 1).
[78] Staff/100, Moore/15.
[79] ICC Prehearing Brief at 26-27 ("Network Upgrades provide system-wide benefits that should be paid by all users and beneficiaries unless the utility can prove there are no benefits.").
[80] ICC Prehearing Brief at 7-8; ICC/100, Lowe/7.

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the ICC's specific proposal represents an unwarranted and unworkable modification to the existing standard.

There appears to be some uncertainty among the parties regarding what specific issues could be addressed in a Phase II to this docket. If the Commission wishes to open a Phase II, in order to move this docket toward an efficient resolution, the Joint Utilities recommend that the Commission: (1) provide guidance on the proper *interpretation* of its quantifiable systemwide benefits standard in this phase of the docket; (2) order the parties to address whether there is a workable method for *implementing* the standard in Phase II, and if not, whether the standard should be modified; and (3) reject ICC's proposal to shift the burden of proof to the utilities. Alternatively, given the challenges presented by the quantifiable systemwide benefits standard, the Joint Utilities believe that the Commission could simply determine in this Phase that the Joint Utilities' proposal is the only workable, legally supportable approach to resolving the cost-allocation issue.

1. Interpretative guidance on the quantifiable systemwide benefits standard would benefit the parties in Phase II of this proceeding

The Commission's quantifiable systemwide benefits standard holds that a QF is presumptively responsible for the costs of its interconnection-driven Network Upgrades unless the QF can demonstrate that the Network Upgrades caused by its interconnection provide "quantifiable system-wide benefits."[81] If it can do so, the QF is eligible for refunds in the amount of the demonstrated benefit.[82]

[81] Order No. 10-132 at 3.
[82] Order No. 10-132 at 3.

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When the Commission established this test in 2009, it did not define the phrase "quantifiable system-wide benefits." To the Joint Utilities' knowledge, the Commission has never provided guidance on what this phrase means or how a QF (or any other party) might make the required showing. The Commission did not define what sorts of benefits might qualify under this standard, nor did it specify to whom benefits must accrue before costs are eligible for recovery.[83] In fact, the phrase "quantifiable system-wide benefits" appears to have been inserted by the Commission into Order No. 10-132 with very little commentary or explanation.[84] There appears to have been no discussion in that docket about whether such a test was workable in principle.

The lack of specificity in the "quantifiable system-wide benefits" standard has made it challenging for the parties to address the issue effectively in this proceeding. For example, Staff made clear in its opening testimony that it believes a QF should be credited for any quantifiable systemwide benefits provided by Network Upgrades it triggers.[85] The Joint Utilities, hoping to respond to Staff's testimony with specificity, propounded discovery asking for Staff's position on the question of *what types of benefits* might qualify for reimbursement, or *to whom those benefits must accrue,* to be eligible for reimbursement. Staff explained that it had not yet taken a position on these issues but believed they should be addressed in Phase II.[86] To aid the parties in a possible Phase II, the Joint Utilities request that the Commission provide clarification regarding the

[83] Joint Utilities/301, Wilding-Macfarlane-Williams/3-4, 34-35, 37 (ICC Response to PGE DR 11; Staff Response to PGE DR 3, 5) (admitting that the Commission has not provided guidance on any of these questions). The Joint Utilities believe the beneficiary of QF-driven Network Upgrades is the QF. Joint Utilities/300, Wilding-Macfarlane-Williams/30.
[84] *See generally* Comments filed in Docket UM 1401 (some parties advocated for adoption of FERC's cost-allocation policy) *and* Order No. 10-132 at 3-4 (declining to adopt FERC's cost-allocation policy and adopting instead the "quantifiable system-wide benefit" standard, which had not been previously discussed in the docket).
[85] Staff/100, Moore/35.
[86] Staff/100, Moore/28.

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beneficiaries and benefits it intends to consider when applying the quantifiable systemwide benefits standard.

a) Intended beneficiaries

While Staff's Prehearing Brief seems to suggest Staff believes *Oregon retail customers* are the intended beneficiaries under the standard,[87] other parties, like NewSun, seem to believe the intended beneficiaries of the Commission's standard are the same beneficiaries contemplated by FERC, which could include any transmission system user in any state, any regulated utility in any state, any third-party supplier of a direct access customer in any state, or any other user of the interstate transmission grid.[88] In order to ensure that state PURPA policy effectuates the requirements of PURPA and state law, the Joint Utilities ask the Commission to make clear that *Oregon retail customers* are the intended beneficiaries under the quantifiable systemwide benefits standard.

b) Intended benefits

The Joint Utilities also believe it would be helpful for the Commission to provide guidance on what types of "benefits" are theoretically eligible for QF reimbursement under the Commission's quantifiable systemwide benefits standard. Specifically, the Joint Utilities ask the Commission to clarify whether its quantifiable systemwide benefits standard is intended to cover a broad range of generalized grid benefits, such as those identified by NewSun, Staff, and ICC (to the extent they accrue to Oregon retail customers), or something different. This specificity would allow the parties to address the issue more effectively in Phase II.

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[87] Staff Prehearing Brief at 12.
[88] NewSun Prehearing Brief at 4-7.

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The Joint Utilities note that quantifying the intended benefits may present a significant challenge, as the Joint Utilities are aware of no methodology that would allow a utility, or any other party, to "quantify" the value of the types of generalized grid benefits raised by the parties, such as increased capacity or reliability.[89] But additional direction from the Commission regarding the types of benefits will aid the parties in the event the Commission orders the parties to explore implementation in Phase II.

2. The Commission should reject ICC's proposal to shift the burden of proof to utilities on the issue of quantifiable systemwide benefits, or at a minimum, defer consideration to Phase II.

The Commission should reject the ICC's recommendation that the Commission modify the burden of proof under its quantifiable systemwide benefits standard to *presume* that all QF-driven Network Upgrades benefit retail customers commensurate with their cost unless a utility proves otherwise.[90] Under the ICC's proposal, Oregon customers would be presumptively responsible for the costs of all QF interconnection-driven Network Upgrades, though utilities would get a "limited opportunity to rebut this presumption."[91] The ICC argues the Commission should adopt its recommendation in this phase, then Phase II should focus on "what circumstances would allow the utilities to overcome this presumption and what evidence the utilities would need to provide to demonstrate that costs exceed benefits."[92] The ICC's recommendation is factually unsupportable,

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[89] As noted previously, the Commission adopted the standard in 2009 without giving parties an opportunity to address its practicality. To be clear, the challenge with Staff's interpretation is the need under Staff's articulation of the standard to calculate a dollar benefit associated with a Network Upgrade and allocate it to a specific party. Under the Joint Utilities' interpretation, *which the Joint Utilities already implement in practice*, a QF is not obligated to pay for Network Upgrades triggered by its interconnection if the Network Upgrades have been identified in the utility's Transmission Plan or identified as necessary for a higher queued service request. In such instances, the Joint Utilities assume the Network Upgrades triggered by the QF are reasonable and prudent, and the Joint Utilities do not require the QF to pay for them.

[90] ICC Prehearing Brief at 8 ("The presumption should be that all Network Upgrades benefit all users of the system, unless the utilities can prove that ratepayers or users are not beneficiaries.").

[91] ICC Prehearing Brief at 4.

[92] ICC Prehearing Brief at 4.

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pragmatically unworkable, would result in unjust and unreasonable customer rates, and likely also would lead to protracted litigation.

a) The ICC's proposed reversed presumption and burden of proof would likely result in endless, intractable litigation.

As noted previously, the Joint Utilities are aware of no methodology that would allow a utility or any other party to "quantify" the value of the types of generalized grid benefits raised by the parties, such as increased capacity, reliability, etc. As discussed below, the Joint Utilities have proposed a simpler alternative that would free QFs from the obligation to pay for Network Upgrades already identified in a utility's transmission plan, a proposal that was roundly criticized by other parties.[93] Despite their willingness to criticize the Joint Utilities' proposal, no party was able to respond with a single example of a methodology that has been used anywhere to quantify benefits such as "increased capacity" (which has more value in some locations than others), let alone allocate them to specific grid users or customers. While the ICC provides a laundry list of reasons it believes a utility, rather than a QF, should be tasked with demonstrating the actual value of a QF's interconnection-driven Network Upgrades,[94] none of those reasons overcome the simple fact that utility transmission providers, despite their expertise and knowledge of their systems, have no information about how to quantify the benefits of Network Upgrades.[95]

Shifting the burden of proof to utilities would create several significant issues. First, if a utility failed to carry its burden of proof to quantify the actual value of a QF's Network Upgrades—

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[93] *See, e.g.*, Staff Prehearing Brief at 12 (criticizing the Joint Utilities' proposed interpretation as too narrow). Staff argues the Joint Utilities "overlook[] the potential benefits to the host utility's transmission system from Network Upgrades necessitated by the interconnection of a QF." *Id.* The Joint Utilities do not overlook them, they simply do not know how to quantify them, for purposes of QF interconnection, or even for their own investments.

[94] ICC Prehearing Brief at 8-9.

[95] Joint Utilities' Prehearing Brief at 25; *see* Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/10. The Joint Utilities addressed the challenges and complexities associated with this idea in testimony; *see, e.g.*, Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/10-24.

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a burden of proof the Joint Utilities have testified they do not know how to meet—utility ratepayers would be saddled with potentially significant unnecessary and unreasonable costs. Second, despite these challenges, a utility would nevertheless feel obligated to litigate this issue *every time* the utility had concerns that the Commission might view the QF's Network Upgrade costs as imprudent or unreasonable. If a utility has *discretion* to challenge QF interconnection costs, as it would under the ICC's proposal, a utility would presumably be obligated to exercise that discretion by taking action to ensure investments made on behalf of customers are prudent. The result is likely to be endless, intractable litigation.

Finally, the ICC's presumption would turn Oregon regulatory law on its head. Utilities certainly carry the burden of proof to demonstrate that rates they file in a rate case are just and reasonable.[96] But utilities do not and should not bear the burden of demonstrating that costs *other parties* impose on retail customers are *improper*. Any party that wishes to increase customer rates is a movant that bears the burden of demonstrating that its proposal is justified.[97]

In short, the Commission should reject the ICC's proposal, which is factually unsupportable, pragmatically unworkable, and would result in unjust and unreasonable customer rates. If the Commission nevertheless intends to consider the ICC's proposal further, it should defer resolution of this issue to Phase II.

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[96] *See* ORS 757.210; *In re PacifiCorp, dba Pac. Power, Request for a Gen. Rate Revision,* Docket UE 374, Order No. 20-473 at 5 (Dec. 18, 2020).

[97] *See, e.g.*, *In re the Application of Scottish Power plc and PacifiCorp for an Order Authorizing Scottish Power plc to Exercise Substantial Influence Over the Policies and Actions of PacifiCorp*, Docket UM 918, Order No. 99-616 at 19 (Oct. 6, 1999) (noting that if Staff or a third-party initiates an overearnings investigation, the burden of proof would rest on the party initiating the investigation); *In re a Rulemaking Proceeding to Adopt Procedures and Standards for Reviewing Gas Util. Rates in the Context of Purchased Gas Adjustment Mechanisms*, Docket AR 357, Order No. 99-284 at 6 (Apr. 21, 1999) (stating that a utility will have the burden of proof only if the utility initiated the rate filing or rate increase).

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3. The Joint Utilities' proposal is the only fair, workable standard articulated to date.

In testimony, the Joint Utilities proposed a construct under which a QF would be exempted from cost responsibility for Network Upgrades if the utility had already determined through its transmission planning process that that the Network Upgrades at issue are necessary for reliability purposes or for transmission capacity expansion to allow for cost-effective load service.[98] Under this test, the Commission could reasonably presume that such Network Upgrades would provide benefits that justify their inclusion in utility rate base.[99] Parties have criticized the Joint Utilities' approach as too narrow, but the Joint Utilities are unaware of any other reasonable or legally appropriate process for determining whether a QF should be exempted from some element of cost responsibility for a Network Upgrade caused by its interconnection.[100]

Utilities do not use a "quantifiable systemwide benefits" test to demonstrate the prudence of transmission system investments, because no such methodology exists. In lieu of such a methodology, utilities are forced to examine their systems to identify and prioritize needed upgrades. As the Joint Utilities' transmission witness have explained, utilities engage in detailed, time-consuming, federally mandated studies to identify and prioritize system investments needed for reliability and load service.[101] They use the results of these prioritization efforts to identify the most important areas for investment.[102] This study process and the resulting transmission plans

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[98] *See* Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/21; Joint Utilities/200, Wilding-Macfarlane-Williams/11-13; Joint Utilities/300, Wilding-Macfarlane-Williams/19-20. The Joint Utilities also include in this test any Network Upgrades triggered by and identified in higher-queued service requests.

[99] If there is a Phase II, the parties will need to consider the circumstance where the use of a previously-identified Network Upgrade by a QF then necessitates the construction of another Network Upgrade to address the need originally identified in the utility's transmission plan—as ultimately utility customers must remain indifferent to the purchase of QF generation.

[100] *See* Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/10. Staff has admitted that the quantification and allocation of such costs is challenging and likely time-consuming, and thus posed a hypothetical cost-sharing mechanism for discussion in Phase II. Staff/300, Moore/8-11.

[101] *See, e.g.,* Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/17-23.

[102] *See, e.g.,* Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/17-23.

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identifying investments best suited to meet system priorities are how utilities generally demonstrate the prudence of their decisions to make specific system investments.

If the Joint Utilities were aware of a method for quantifying and allocating the generalized value of transmission system investments, it would certainly be a helpful tool for demonstrating the prudence of such investments in rate cases. But the Joint Utilities challenge the parties or this Commission to find evidence that such a methodology exists or that utilities have sought cost recovery of transmission system investments by quantifying the generalized value of such investments and allocating them to retail customers. Saddling any party with the burden of calculating and allocating the quantifiable systemwide benefits of any particular Network Upgrade sounds reasonable but is fraught with implementation problems.

Under the Joint Utilities' proposal, QFs can lean on the results of a transmission provider's comprehensive system studies to identify transmission system investments that are important for system operations. If a QF's interconnection requires Network Upgrades that have already been identified in a utility's transmission planning, the QF is exempted from cost responsibility for those Network Upgrades because there is evidence that the Network Upgrades are *priority* investments that provide real value to retail customers—rather than arbitrary construction projects that, if constructed by a utility voluntarily, would be criticized or disallowed as "gold plating."[103] Application of this standard is fair and reasonable to both QFs and retail customers. Moreover, it comports with PURPA's customer indifference principle.[104] Therefore, the Joint Utilities request that the Commission either determine that the Joint Utilities' proposal is the only workable, legally

[103] If a QF's interconnection study identified the need to reconductor a radial line in the middle of nowhere, those Network Upgrades would not show up in a utility's transmission plan, nor should they, and the QF should be responsible for the costs.
[104] Joint Utilities/200, Wilding-Macfarlane-Williams/5-6.

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supportable approach to resolving this issue, or alternatively, provide the requested guidance and direct the parties to further consider this issue in Phase II.

E. The Commission's Current QF Cost Allocation Policies Are Fair to QFs

The Joint Utilities have explained the legal and policy bases for upholding the Commission's existing QF interconnection policies, which are critical for protecting customers and complying with PURPA. Nevertheless, QFs continue to argue that, for various reasons, the Commission's policies are simply unfair. This assertion provides no basis for a change in Commission policy, which must be grounded in the mandates of PURPA and state law. But in any event, the assertion is simply incorrect.

1. The application of FERC cost-allocation policies to utilities, but not to QFs, is fair.

As noted previously, FERC's cost-allocation scheme, which allocates the cost of Network Upgrades to all transmission system users (including retail customers), would provide a scheme for runaway interconnection costs if applied to QFs, adding potentially massive, uncapped, unscrutinized transmission system construction costs to retail rates. By contrast, application of FERC's cost-allocation scheme to utilities does *not* create this problem. State commissions and competition keep these costs largely in check. A non-QF generator sited in a location with high interconnection and delivery costs is unlikely to find a utility purchaser and is therefore likely to fail, an economic failure that represents good regulatory policy.[105] Conversely, a non-QF generator that has sited in a location with low interconnection and delivery costs is more likely to

[105] Joint Utilities/300, Wilding-Macfarlane-Williams/37-38.

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succeed in its efforts to sell power to a utility because the purchase of its generation is more likely to be deemed prudent.[106]

Given this practical reality, the Joint Utilities believe the simplest, fairest, and most appropriate way to ensure consistency with PURPA's avoided-cost standard is to require QFs to adhere to the same standards utilities must adhere to for resource acquisition as a matter of principle: *find low-cost, cost-effective locations for interconnection,* or *site projects in locations where the Network Upgrade at issue has either been identified in a utility's transmission plan as a necessary, priority investment or identified as a necessary upgrade in the study of a previous service request.*[107] (For brevity, the Joint Utilities will refer to both of these scenarios as Network Upgrades that are part of a utility's "Transmission Plan.") The apples-to-oranges legal schemes governing regulation of QFs and non-QFs make it impossible to apply identical customer protection mechanisms to both types of generators,[108] but the Commission's current PURPA policies, along with the Joint Utilities' proposal for exempting QFs from cost responsibility for certain Network Upgrades, are a fair and practical method of ensuring that the cost of QF generation, like non-QF generation, remains fair, just, and reasonable.[109]

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[106] Joint Utilities/300, Wilding-Macfarlane-Williams/37-38.

[107] Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/21-22. As the Joint Utilities explained, this version of the test has meaningful benefits. First, it encourages a QF to site its project in a location where the utility has already identified the need for additional transmission upgrades. Second, it provides a significant financial benefit to the QF. Third, it assures the Commission that customers pay only for those upgrades that have been determined to be prudent and necessary and will not pay for upgrades that are relatively useless to the system.

[108] For example, QFs insist they must enter into PPAs early in the development process so they can obtain financing. While this is understandable from a financing perspective, it limits the Commission's ability to address QF delivery costs anywhere but the QFs interconnection agreement. This could be mitigated if QF PPAs contained what the parties have referred to as a "conditional DNR," a provision that makes the contract contingent on low delivery costs and provides an opportunity for the utility to come to the Commission if they are not. But PURPA's must-take obligation, the legally enforceable obligation, and elements of PURPA complicate potential solutions.

[109] Unlike a non-QF, however, a QF can force a utility to purchase its power. Thus, if a QF can find an economically favorable site, it enjoys a benefit no other generator does: a guaranteed purchaser and a guaranteed price.

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2. Challenges associated with project siting are not unique to QFs, and utilities cannot solve those challenges for QFs.

QF parties unfairly blame utilities for difficulties siting projects.[110] But as the Joint Utilities' transmission witnesses have explained, it is very difficult for anyone—QF developers, non-QF developers, and even transmission providers—to know with specificity what costs a generator interconnection request will trigger until interconnection studies are complete.[111] While there are certain areas of utilities' transmission systems that are known to be constrained, as well as known issues with siting in load pockets, a number of variables exist that make it difficult to ascertain with certainty what interconnection engineering studies will show until the studies are complete.[112] To provide just one example, PacifiCorp's resource acquisition group will not commit to purchase power from a generator that wins an RFP until PacifiCorp sees both the generator's interconnection studies and the resulting transmission service studies, simply because the results of those studies are hard to predict and can change quickly.[113] In short, understanding the potential cost impacts of interconnecting a generator is a challenging issue for all interconnecting generators, not just QFs.

Moreover, QFs have access to the same information and planning tools as all non-QF generators. The utilities provide significant transmission system information on their OASIS sites, which are accessible to all interconnection and transmission customers, including their own merchant functions.[114] In order to ensure equal access to information for all interested entities,

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[110] *See, e.g.,* ICC Prehearing Brief at 17.
[111] Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/35. And if this Commission allows a QF to obtain ERIS, all parties will be blind to the magnitude of deliverability costs until the utility requests transmission service on behalf of customers.
[112] Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/35.
[113] Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/35-36. PGE also requires interconnection and transmission study information before making procurement decisions.
[114] Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/36.

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FERC ordered utilities to provide this information in a uniform fashion to all potential interconnection and transmission customers, including QFs. This information includes prior studies for generation interconnection requests as well as the base case model files used by transmission providers to perform studies. QFs can use this information to perform their own analyses prior to submitting an interconnection request, analyses that may help with siting decisions. In addition, utilities offer several products to assist interconnection customers with siting, such as pre-application reports and informational studies.[115]

F. Conclusion

In sum, the Commission's current QF cost-allocation policies are not only consistent with PURPA's customer indifference principle, they are also fair to both QFs and retail customers because they: (1) incentivize cost-effective project development to ensure customer rates remain just and reasonable, consistent with the incentives imposed on regulated utilities and non-QF generators; and (2) allow QFs access to the same information and planning tools available to the merchant functions of regulated utilities and non-QFs alike. The Commission should reaffirm its current QF cost-allocation policies, reject NewSun's and the ICC's proposals, and either adopt the Joint Utilities' proposal for determining when QFs are not responsible for Network Upgrade costs, or alternatively, provide clarification on its quantifiable systemwide benefits standard and order the parties to address implementation of that standard in Phase II.

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[115] And, as the Joint Utilities have noted, to the extent a generator is interconnecting with a utility's distribution system, rather than a utility's transmission system, the utilities publicly post detailed distribution system data that was developed in consultation with Staff and QF stakeholders in docket UM 2001 to assist QFs in making siting decisions. The Commission and stakeholders are in the process of developing a framework for utility distribution system planning in docket UM 2005. Utilities' system planning reports will become more robust over time and may provide more of the information at the distribution system level that QFs are seeking. Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/36-37.

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III. ISSUE 2: NETWORK RESOURCE INTERCONNECTION IS THE ONLY SERVICE TYPE APPROPRIATE FOR QUALIFYING FACILITIES

Commission policy currently requires QFs directly interconnecting with a purchasing utility's system[116] to obtain NRIS, a comprehensive level of interconnection service. NRIS is the appropriate interconnection service for QFs given FERC's articulation of the requirements for the delivery of a QF's output under PURPA. As the Joint Utilities explained in testimony and their Prehearing Brief, NRIS is critical because an NRIS interconnection study is the only type of interconnection study that allows the utility, the QF, and the Commission to identify deliverability issues associated with a QF's siting choice while this Commission still has control over the allocation of interconnection costs. Without an NRIS study, costly but necessary deliverability upgrades remain invisible until later in the process, when the utility's merchant function is required to seek *transmission service* needed to deliver the QF generation to customers.[117] Once transmission service studies are conducted, the utility may discover that its obligation to take 100 percent of the QF's power will trigger costly Network Upgrades that are largely the responsibility of retail customers, and that the PPA requiring the utility to purchase the QF's generation has turned out to be a costly liability.[118]

Despite parties' suggestions to the contrary, there is no straightforward regulatory alternative to requiring NRIS that will ensure customers remain unharmed by a QF's

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[116] While FERC ordinarily has jurisdiction over a generator's interconnection with a utility's transmission system, PURPA gives state authorities jurisdiction over such interconnections so long as the QF is selling all of its output to the directly interconnected utility. 18 C.F.R. § 292.303; 18 C.F.R. § 292.306; Order No. 2003 at PP 813-814.

[117] *See, e.g.,* Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/32-33.

[118] As the Commission noted in *Blue Marmot*, a case involving an *off-system* QF, "we conclude that we cannot alter the avoided costs established in the Blue Marmots' LEOs to incorporate additional direct or indirect transmission-related costs, given that our interconnection process for QFs does not identify and capture the transmission-related

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interconnection. Recognizing these issues, Staff agrees with the Joint Utilities that NRIS is the appropriate interconnection service for QFs wishing to enter a fixed-price term PURPA PPA.[119] Staff asserts that NRIS, "is likely the most practical interconnection service for QFs,"[120] and "the cleanest way to manage the cost allocation of deliverability-driven Network Upgrades for QFs."[121]

A. QFs Have Articulated No Workable Alternative to NRIS.

The ICC broadly asserts that allowing a QF to obtain ERIS will "lead to more innovative and cost-effective solutions to addressing high interconnection costs," an assertion with no merit.[122] NewSun argues that a QF should simply be able to choose to sell power in a manner that comports with ERIS.[123] None of the parties' proposed "solutions" resolves the fundamental problem with allowing QFs to interconnect with ERIS. Indeed, the Joint Utilities are aware of no magic solution for making electric power deliverable to customers when a QF sites in a constrained area and the utility must take the QF's power at the QF's chosen point of interconnection, as is required under PURPA.[124]

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costs that an off-system QF's delivery to a POD constrained by a transmission management decision may cause." *Blue Marmot V LLC et al. v. Portland General Electric Co.*, Docket UM 1829, Order No. 19-322 at 8 (Sept. 30, 2019). As the Commission noted, however, "[f]or the more common on-system QFs, transmission issues would have been identified through the separate interconnection process that is a precondition to commercial operation, not to contract execution." *Id.* at 16, n.33. To be clear, these "transmission issues" would only be identified through a *NRIS study*, *they would not show up in an ERIS study*. Moreover, requiring the QF to seek NRIS interconnection service *as soon as possible* will help the utility effectuate the Commission statement in *Blue Marmot* that "[a] utility should review significant proposed QF delivery terms as early as possible, and ideally well before providing a final draft executable contract." *Id.* at 16. As the Joint Utilities have noted, it is difficult to ascertain with certainty what delivery constraints exist until appropriate engineering studies are completed. Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/35.

[119] Staff Prehearing Brief at 15.
[120] Staff/100, Moore/32.
[121] Staff/100, Moore/33.
[122] ICC Prehearing Brief at 19.
[123] NewSun Prehearing Brief at 10-13.
[124] *See e.g., Entergy Servs., Inc.,* 137 FERC ¶ 61,199 at P 52 (2011); *Exelon Wind,* 140 FERC ¶ 61,152 at P 50 (2012).

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The Joint Utilities have described the ERIS cost-shifting problem in detail,[125] but to summarize briefly: once a utility has signed both a PPA and an interconnection agreement with a QF, the utility becomes obligated by PURPA's must-take requirement to take steps necessary to ensure the QF power can be used to serve load.[126] Whether the costs of accommodating the QF turn out be $50,000 or *$50 million*, Oregon customers will presumably be liable for the majority of those costs unless they have been allocated to the QF through its PPA or interconnection agreement.[127] Without this Commission's protections, a utility has no authority to avoid the cascading obligations imposed on it by PURPA.

The Commission's current policy, which requires QFs to obtain NRIS and to pay for the Network Upgrades they trigger, largely solves this problem—not by quashing all QF development, but by discouraging inefficient, expensive QF development. Thus, the Commission's current policy allows reasonable, cost-effective QF development to continue. As the Joint Utilities noted in their Prehearing Brief, if a generator sites in an economically efficient location, there is little or no difference between the Network Upgrade costs required for ERIS and for NRIS.[128] Requiring NRIS is therefore protective, not punitive.

1. Using firm point-to-point transmission service does not solve the ERIS cost-shifting problem.

The ICC argues that the ERIS cost-shifting problem could be avoided by allowing QF generation to be delivered on a firm basis using firm point-to-point transmission service, while

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[125] *See, e.g.,* Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/27.
[126] As FERC explained in *Pioneer Wind*, 145 FERC at P 38, "The Commission has specifically held that...the purchasing utility cannot curtail the QF's energy as if the QF were taking non-firm transmission service on the purchasing utility's system."
[127] As Staff has noted, a utility's retail customers are responsible for the majority of their transmission provider's transmission costs.
[128] *See* Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/33 (explaining that in areas where there are no significant deliverability issues associated with QF interconnection, "NRIS and ERIS studies would be expected to show similar or identical interconnection results.").

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still designating the QF as a network resource.[129] The ICC argues that PacifiCorp has previously used firm point-to-point transmission service to transport energy from a QF in a load pocket (an area where there is more generation than load) to PacifiCorp's load elsewhere on its system, and argues that the use of point-to-point transmission service could solve the ERIS cost-shifting problem.[130]

As the Joint Utilities' transmission witnesses have explained, however, obtaining firm point-to-point transmission service, rather than network transmission service, solves neither the deliverability nor cost-shifting issues associated with siting in a constrained area.[131] If transmission constraints prevent the delivery of a QF's power to load from the QF's point of interconnection, those constraints will show up in a transmission service study for firm point-to-point transmission service, just as they would show up in a study for firm network transmission service.[132] Deliverability constraints do not simply disappear because a utility chooses a different form of firm transmission service. If there is no capacity to deliver the QF's power, there is no capacity. The ICC's proposal would continue to shift delivery costs from the QF's interconnection process to the utility's transmission study process.

In the instance of a utility *load pocket*, where a utility lacks transmission to export the QF generation from one non-contiguous area of its system to another—a specific type of constraint—it is possible that a utility may be able to obtain point-to-point transmission to move the QF's generation from one load pocket to another where it can be used to serve load. But the availability of third-party transmission across non-contiguous portions of a utility's system is not guaranteed,

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[129] Interconnection Customer Coalition/100, Lowe/25.
[130] Interconnection Customer Coalition/300, Lowe/15-16.
[131] *See* Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/31.
[132] *See* Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/31.

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and any assumptions about availability are likely to become riskier as the system becomes more constrained. If a QF were to obtain ERIS on the assumption that a utility will be able to export the QF generation on third-party transmission, and that transmission is or becomes unavailable, the utility would be responsible for building transmission to move QF power out of the load pocket absent protective provisions in the QF's PPA. These are the most expensive types of Network Upgrades identified in NRIS studies, sometimes costing hundreds of millions of dollars.[133]

Moreover, as the Joint Utilities' transmission witnesses have noted, an overabundance of non-curtailable resources in a constrained area, such as generation in a load pocket that cannot be exported out, can create conditions that threaten reliability—not just on the utility's system, but potentially on adjacent transmission providers' systems—unless the utility makes investments to ensure the generation can, in fact, be exported out of the area.[134] Thus, the ICC's proposal could lead to hundreds of million dollars of unavoidable QF-driven Network Upgrades, a colossal risk for customers to bear in the event a QF chooses ERIS and the necessary transmission out of a load pocket is unavailable. Allowing QFs to obtain ERIS without providing some mechanism for making them responsible for any deliverability-driven Network Upgrades necessitated by interconnection at their chosen point of interconnection would leave customers highly vulnerable to significant costs.

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[133] Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/20.

[134] *See* Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/30-31. ICC does not describe any "other alternative" or the "certain circumstances" in which it might apply, despite having ample opportunity in this contested-case proceeding to develop facts and propose solutions on the record. The Joint Utilities are unaware of any such alternative and will not speculate about any unarticulated idea ICC may have in mind.

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2. Oregon's Community Solar Program (CSP) does not provide a practical solution for the ERIS cost-shifting problem.

The ICC also asserts that Oregon's CSP interconnection process demonstrates that a QF can obtain ERIS without the risk of unreasonable costs falling on retail customers.[135] The ICC argues that if CSP projects are able to interconnect using ERIS, then non-CSP QFs should also be allowed to interconnect using ERIS "or another alternative in certain circumstances."[136] Although parties are at the end of a long and protracted Phase I of this proceeding, it remains unclear to the Joint Utilities whether the ICC is asking the Commission to adopt the CSP interconnection process for all QFs, or whether the ICC is simply pointing to the CSP repeatedly as an example of the possible.[137] Given the persistent vagueness of the ICC's advocacy on this point, the Joint Utilities will simply note that the CSP process, unlike the Commission's standard QF PPA and QF interconnection processes, recognizes the risk associated with allowing QFs to obtain ERIS, and includes multiple components intended to protect customers from the associated financial risk,[138] including location-specific generator size caps[139] and contractual protections to limit cost shifting to retail customers should the size caps prove insufficient.[140] While these measures do not mitigate all ratepayer exposure to unreasonable costs, they provide *some* protections against the problems inherent in using ERIS where NRIS is more appropriate, particularly the cost-shifting problem.

While a scheme of complex customer protections might allow QFs to obtain ERIS without significant risk to customers, any such scheme is likely to be cumbersome and unmanageable.

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[135] ICC Prehearing Brief at 19-20. *In re Pub. Util. Comm'n of Or., Community Solar Interconnection Update*, Docket UM 1930, Order No. 20-038, Appendix A at 4 (Feb. 4, 2020). *See also* Docket UM 1930, Order No. 19-392, Appendix A at 6-10 (Nov. 8, 2019).
[136] *Id.*

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With respect to the CSP example, it is unclear whether the CSP interconnection process would be workable for any and all QFs, whether the ICC members are actually offering to agree to all of the conditions of CSP interconnection (and the associated CSP PPA provisions addressing identification and responsibility of Network Upgrades), whether those conditions would be adequate to protect customers on a broader scale and with larger QFs on the transmission system, or whether the administrative burden of this effort on QFs, the utilities, and this Commission would be any more fair and reasonable than simply incentivizing QFs to site in economically efficient locations and requiring them to pay for the resulting NRIS costs. In short, the ICC has provided no evidence to demonstrate that the Commission's CSP interconnection process provides any basis on which to eliminate the Commission's NRIS requirement.

3. The fact that off-system QFs can select ERIS is irrelevant.

The ICC also argues that off-system QFs are allowed to select ERIS, so this could somehow provide a solution for the ERIS cost-shifting problem caused by directly interconnected QFs.[141] The ICC argues that "[a]n off-system QF can ensure firm deliverability to the purchasing utility's system by interconnecting with ERIS on the non-purchasing utility's system and purchasing firm PTP transmission service to a point of delivery with available transfer capability on the purchasing

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[137] ICC has had access to discovery, multiple rounds of testimony, and now briefing, all of which should have permitted ICC to articulate a specific position about whether QFs would agree to the customer protections included in the CSP program, or whether ICC thinks that relatively complex interconnection process could work if implemented systemwide

[138] *See, e.g.,* Order No. 20-038, Appendix A at 6-7.

[139] *See* Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/34. This cap has been a work-in-progress, and its effectiveness at risk mitigation was altered when the cap was raised in accordance with a Staff recommendation. Order No. 19-392, Appendix A at 8-9.

[140] *See* Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/34. Key protections also include a PPA provision referred to as a "Conditional DNR," which provides contractual protection in the event the generator triggers significant Network Upgrades despite the existence of other protections. *See, e.g.*, Docket UM 1930, Staff Report at 12 (July 20, 2020).

[141] ICC Prehearing Brief at 20.

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utility's system."[142] While this is true, it is irrelevant, because it has nothing to do with the ERIS cost-shifting problem and resolves no issues with transmission constraints.

An off-system QF can certainly interconnect with ERIS, but once an off-system QF interconnects with a non-purchasing utility's system, the off-system QF is responsible for *making its own firm transmission arrangements* to deliver its power to the purchasing utility's system.[143] If the QF sites in a constrained area, firm transmission service—point-to-point or otherwise—may simply be unavailable. If that is the case, the QF's choice of ERIS will mean it can interconnect but it cannot deliver its power to the purchasing utility. Fortunately, in the case of an off-system QF, the costs triggered by the QF's interconnection will be the QF's problem, and will not be imposed on retail customers. The ERIS cost-shifting problem simply never arises.[144] For a purchasing utility and its customers, then, an off-system QF's selection of ERIS or NRIS is irrelevant.[145]

The ICC also argues that "a project could interconnect at a point of interconnection on the purchasing utility's system using ERIS, purchase firm [point-to-point] transmission service from

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[142] ICC Prehearing Brief at 20.

[143] In instances where a QF sites in a PacifiCorp load pocket where there is insufficient load available to sink additional generation, the Commission has adopted a tool that can in some instances help mitigate QF-created deliverability costs by requiring a QF to purchase a firm, point-to-point transmission wheel on a third-party's system to move certain of its generation to load. *See In re Pub. Util. Comm'n of Or., Staff Investigation into Qualifying Facility Contracting and Pricing,* Docket UM 1610, Order No. 20-064 (Mar. 3, 2020). As is self-evident, however, this tool does not work unless firm-third-party transmission happens to be available. Moreover, post-interconnection tools that may be created to solve for deliverability issues are cumbersome, complex, and often ineffective. Thus, such tools provide no clear substitute for requiring a QF to obtain NRIS as a policy matter.

[144] While an off-system QF will not trigger interconnection-driven Network Upgrades with the purchasing utility, it may trigger the need to construct Network Upgrades to relieve transmission constraints at the QF's chosen point of delivery, an issue this Commission addressed in its *Blue Marmot* order. In that order, the Commission made clear that QFs do not have unlimited discretion to choose where to deliver their power, and that retail customers should not be exposed to financial liability for a QF's decision to deliver power at a constrained point of delivery. Order No. 19-322.

[145] If that off-system QF is located in a constrained area of a third-party transmission provider's system, the QF may be out of luck trying to deliver the power to the purchasing utility on a firm basis, making efficient siting a priority for off-system QFs, as well as on-system QFs.

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a non-purchasing utility, and deliver firm energy to the purchasing utility at a point of delivery with available transfer capability."[146] This hypothetical is presumably intended to apply to a a non-contiguous area of a utility's system, since it would make no sense in any other context. If the ICC is suggesting that a QF could interconnect in an area from which its power would need to be exported, make its own firm point-to-point arrangements to deliver the power to another area of the purchasing utility's system that was unconstrained, and bear all risk that the transmission needed to deliver the QF power would become unavailable during the term of the PPA, such an arrangement could be possible. However, the QF's PPA would need to clearly reflect the QF's obligation to deliver its full output to a location where it can be economically used to serve load, and meaningful remedies would need to be available to the utility if the QF does not.[147]

4. QF curtailment is neither legal nor operationally practical.

The ICC and NewSun also suggest that if a QF were willing to voluntary curtail its power, it could avoid the need for NRIS interconnection costs.[148] In their view, QFs could simply obtain ERIS and agree to curtailment. However, in 2013, FERC issued an order in *Pioneer Wind Park I, L.L.C.,* ("*Pioneer Wind*"), that made clear that PURPA requires a utility to deliver QF power on firm transmission, no matter where a QF sites it project, rather than curtailing it.[149] Neither the ICC nor NewSun offers any meaningful argument in response to *Pioneer Wind's* holding.

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[146] ICC Prehearing Brief at 20.
[147] For *standard* QFs, the standard off-system QF PPA would need to be modified to reflect new requirements. For non-standard QFs, the QF would need to accept the risk and responsibility for firm delivery of its generation to an unconstrained point of delivery. The QF would also need to comply with any other obligations needed to comply with legal requirements and/or hold customers harmless. For example, assuming such an interconnection were FERC-jurisdictional, the QF would need to demonstrate commercial readiness as part of PacifiCorp's cluster-study process.
[148] Interconnection Customer Coalition/100, Lowe/25-26; Interconnection Customer Coalition/300, Lowe/14-15; NewSun Prehearing Brief at 10.
[149] *Pioneer Wind,* 145 FERC ¶ 61,215; Joint Utilities' Prehearing Brief at 33-34.

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For its part, the ICC points in its Prehearing Brief to a recently approved QF interconnection tariff filed by Puget Sound Energy (PSE) and approved by the Washington Utilities and Transportation Commission (WUTC),[150] which, according to the ICC, demonstrates the viability of ERIS for QFs.[151] The tariff creates what is referred to as an "optional transmission interconnection service" for QFs in which QFs can choose "limited" curtailments as an alternative to paying for full Network Upgrades if PSE has adequate available transmission capacity.[152] The existence of this tariff, the ICC asserts, makes clear that curtailment of QFs is possible and that ERIS should therefore be an option for QFs.[153]

A few things are notable about the WUTC's approval of this tariff. First, PSE appears to have agreed to the tariff as a compromise with the ICC, but PSE's filing fails to mention *Pioneer Wind* or offer any legal authority for the tariff whatsoever.[154] In fact, it is unclear whether PSE is aware of the *Pioneer Wind* holding at all. Second, WUTC Staff said very little in its public meeting memorandum about the tariff, so it is also unclear whether Staff or the WUTC are aware of *Pioneer Wind*.[155] What is clear is that the WUTC Staff failed to confront or grapple with any questions about the tariff's legality in the one-and-a-half page memo discussing it.[156] Third, although the ICC filed fourteen pages of comments in the WUTC proceeding in support of PSE's tariff, the ICC also failed to grapple with *Pioneer Wind's* prohibition on curtailment in its own comments.[157]

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[150] ICC Prehearing Brief at 21 (*citing* Interconnection Customer Coalition/301, Lowe/1-17 (PSE's Schedule 153 QF Transmission Interconnection Service Tariff and additional explanatory materials, and WUTC Staff Memorandum for Dec. 23, 2021 Open Meeting)).
[151] ICC Prehearing Brief at 21-22.
[152] ICC Prehearing Brief at 21.
[153] ICC Prehearing Brief at 21-22.
[154] *See In re Puget Sound Energy's Proposed New Schedule 153 Tariff*, Docket No. UE-210818, Puget Sound Energy's Initial Filing (Oct. 29, 2021); Docket No. UE-210818, Reply Comments in Response to the Joint Comments of Northwest & Intermountain Power Producers Coalition and Renewable Energy Coalition (Dec. 8, 2021).
[155] Docket No. UE-210818, Open Meeting Memo for the December 23, 2021 Open Meeting (Dec. 23, 2021).
[156] Docket No. UE-210818, Open Meeting Memo for the December 23, 2021 Open Meeting.
[157] *See* Docket No. UE-210818, Comments of Northwest and Intermountain Power Producers Coalition and Renewable Energy Coalition (Nov. 23, 2021) (ICC Comments).

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Fourth, the tariff appears to have gone into effect without a WUTC order, simply by operation of law.

The ICC was clearly aware of *Pioneer Wind's* holding on curtailment due to its participation in this docket.[158] But the ICC failed to meaningfully address that holding in its WUTC comments. The ICC cited *Pioneer Wind* for the proposition that PURPA requires states to assess interconnection costs "on a nondiscriminatory basis" and to impose "reasonable standards to ensure system safety and reliability of interconnected operations,"[159] but mentioned the curtailment holding only in a footnote stating that FERC held the curtailment provision in the QF PPA unlawful "because it was discriminatory." This characterization minimizes FERC's holding, which stated that "the purchasing utility cannot curtail the QF's energy *as if the QF were taking non-firm transmission service* on the purchasing utility's system."[160] Because the ICC failed to alert the WUTC to *Pioneer Wind's* core holding, the record does not reflect any meaningful discussion of *Pioneer Wind* or its implications. In short, the process by which the PSE tariff was approved raised none of the salient legal concerns raised in this docket, and it should be given no weight.

Second, the tariff appears to establish a new, state-designed, interstate transmission service. By introducing a curtailment provision that would allow PSE to cut transmission service under specified conditions, the tariff effectively permits QF power delivery on non-firm transmission, precisely what *Pioneer Wind* prohibits.[161] While the ICC did not raise this tariff in time for the

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[158] *See* Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/31-32 (describing *Pioneer Wind* in detail); ICC/105, Lowe/1-2 (PacifiCorp's Response to Staff Data Request 6, filed by ICC as an exhibit to Mr. Lowe's opening testimony on October 30, 2020) (discussing *Pioneer Wind* and its impact on PacifiCorp's QF arrangements).
[159] ICC Comments at 8-9.
[160] ICC Comments at 9, n.24; *Pioneer Wind,* 145 FERC at P 38.
[161] *Pioneer Wind,* 145 FERC at P 38 (emphasis added).

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Joint Utilities' expert witnesses to discuss its practicality, it is clear from the face of the tariff that it allows a utility to curtail a QF's transmission service. In FERC parlance, that transmission service is therefore the equivalent of "non-firm" transmission, a form of transmission prohibited in this situation by *Pioneer Wind*.[162]

Moreover, FERC has exclusive jurisdiction over transmission service; states do not.[163] To the extent that the ICC is arguing that a state commission has authority to create and define a type of transmission service not defined by FERC, one that somehow puts it beyond the scope of FERC's prohibition in *Pioneer Wind,* the ICC provides no support for such a conclusion. It is unclear to the Joint Utilities how states might possess the authority to design new forms of transmission to be used to deliver power on the interstate grid in order to avoid the mandates of *Pioneer Wind*. This jurisdictional issue is profound, and the ICC offers no explanation for getting past it.

Third, even if the tariff passed muster under *Pioneer Wind,* it is unclear what the tariff would accomplish as a practical matter other than decreasing reliability and shifting costs to other customers. The tariff would give QFs a break on a limited subset of interconnection-driven costs by requiring the utility to ignore certain NERC *reliability* and *safety* issues caused by the QF in

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[162] *Pioneer Wind,* 145 FERC at P 38 ("[I]n addition to the fact that the proposed curtailment provision is broader than the purchasing utility's right to curtail purchases in system emergencies under section 292.307(b) of the Commission's PURPA regulations, and unduly discriminatory, the proposed curtailment provision, in effect, treats Pioneer Wind *as if it were a non-firm transmission customer*, which is in direct violation of the Commission's PURPA policies.") (emphasis added).

[163] In Section 201(b)(1) of the FPA, Congress granted FERC authority over "the transmission of electric energy in interstate commerce and to the sale of electric energy at wholesale in interstate commerce."16 U.S.C. § 824(b)(1).

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the QF's interconnection studies.[164] To be clear, the Joint Utilities would not be comfortable dispensing with reliability elements of a study simply to make it cheaper for a QF to interconnect. But even if the Joint Utilities were comfortable studying their systems without considering all NERC reliability standards, simply ignoring mandatory safety and reliability studies during the interconnection study process would either *increase* the likelihood of reliability events on the system, a problematic outcome, or shift the need to fund reliability and safety upgrades triggered by the QF to the *next service request* (and thus potentially to retail customers) or to the transmission provider when the issue shows up in NERC reliability studies.

Fourth, requiring utilities to ignore specific reliability requirements in QF interconnection studies could potentially eliminate *some* costs, but it is unclear how simply ignoring reliability issues would provide meaningful relief in situations where the system is substantially constrained. As PSE explained, the tariff makes clear that a QF under the tariff must be "Fully Deliverable," which means the QF:

> meets all interconnection requirements, including the construction of any and all (i) necessary interconnection facilities to meet interconnection standards and (ii) system upgrades, if necessary, to deliver output from the Qualifying Facility to Company's retail customers, and Company has available transmission capacity, including the construction of any and all necessary facilities to guaranty transfer capacity, necessary to deliver the Net Output to any point on Company's Transmission System.[165]

Moreover, the QF would remain responsible for all such costs. This means the tariff is likely to drive down reliability without relieving the QF from the most meaningful NRIS costs associated

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[164] *See* Docket No. UE-210818, Puget Sound Energy's Filing Letter at 2 (Oct. 29, 2021) (noting that study obligations under the proposed tariff are different from FERC's NRIS study obligations because the proposed new QF-specific study process eliminates the transmission provider's requirement to identify Network Upgrades needed "to ensure adequate redundancy in interconnection facilities and capacities in case of an N-1-1 outage.") In other words, the QF-specific tariff relieves the transmission provider of the obligation to ensure its facilities comply with NERC Standard TPL-001-1 (Transmission System Planning Performance Requirements) as part of the interconnection process, despite the fact that FERC requires transmission providers to comply with NERC reliability standards.

[165] *See* Docket No. UE-210818, Puget Sound Energy's Filing Letter at 2.

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with delivery. In short, the tariff does not comport with *Pioneer Wind*; it allows QFs (and QFs alone) to interconnect without the need to study for NERC reliability requirements; and it does not otherwise relieve QFs of the obligation to pay for Network Upgrades needed to ensure deliverability. For these reasons, it is bad policy that does not appear to solve the issue of deliverability costs.[166]

Finally, neither the ICC nor NewSun engages with testimony from the Joint Utilities' transmission witnesses noting the challenges of actually implementing any contractual curtailment provision. As the Joint Utilities' transmission witnesses noted, if it did not violate *Pioneer Wind*, a QF agreeing to voluntary curtailment could, in theory, be delivered on non-firm transmission service, which would prevent the need for a transmission provider to perform a deliverability analysis or identify deliverability-related Network Upgrades.[167] But from an operational perspective, even if a utility secured non-firm transmission service to deliver a QF's power, the periods when that non-firm transmission service is unavailable would be driven by system conditions, not interconnection customer choice, and therefore may not always coincide with the periods when a QF is agreeing to voluntary curtailment.[168] Moreover, conditions may change significantly over time.

In sum, the tariff appears to provide no obvious solution to the issues identified by the Joint Utilities with respect to curtailment in general.[169] Neither the ICC nor NewSun has offered

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[166] Finally, to the extent the tariff allows QF curtailment in emergency situations, FERC already allows QF curtailment in emergency situations. Section 292.101(b)(4) of FERC's PURPA regulations, 18 C.F.R. § 292.101(b)(4), defines "system emergency" as "a condition on a utility's system which is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property." To the extent the tariff allows a QF to be curtailed *first*, however, it conflicts with *Pioneer Wind*.

[167] Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/247.

[168] Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/247.

[169] *See* ICC/300, Lowe/14-15; ICC/301. If the Commission is interested in expert testimony about the operational issues associated with PSE's tariff in constrained areas, the Joint Utilities would be happy to provide such testimony.

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meaningful testimony or legal authority responsive to the Joint Utilities' understanding of the prohibition on QF curtailment, and their arguments in support of permitting QF curtailment should be rejected.

5. Utilities can use ERIS for their own resources because non-QF resources do not trigger the ERIS cost-shifting problem.

The ICC argues that utilities "will allow ERIS for their own resources, so it is possible that ERIS or an alternative could work for QFs."[170] NewSun makes similar assertions.[171] But, as with other broad and unspecific references to hypothetical creative solutions, the parties fail to support these assertions with any additional meaningful proposals, despite two years of litigation, ample access to discovery, and the opportunity to file expert testimony on this issue. Moreover, they fail to grapple meaningfully with the Joint Utilities' testimony detailing why allowing ERIS for *non-QF* resources is completely different because it does not drive any concerns about shifting potentially significant Network Upgrade costs to customers.[172]

As the Joint Utilities have explained, ERIS may be appropriate for non-QF, FERC-jurisdictional generators, in general, because FERC-jurisdictional generators may need firm delivery, or they may not; they may be used for load service, or they may not; they may be economically curtailable, or they may not.[173] This operational and financial flexibility does not exist for QF power. In addition, when a utility acquires generation, it can address the deliverability issues associated with the generator's location in one of two ways: by seeking NRIS, whereby deliverability issues are examined in the interconnection process; or by seeking ERIS and then later examining deliverability issues in the transmission service study process. In either of

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[170] ICC Prehearing Brief at 19.
[171] NewSun Prehearing Brief at 13.
[172] *See, e.g.,* Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/35-36.
[173] Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/35.

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those circumstances, the utility is responsible for ensuring the overall cost of the generation is prudent. This overarching financial responsibility does not exist for directly interconnected QFs, where the QF makes its interconnection arrangements and passes the burden of making transmission arrangements (and any associated costs, absent protective provisions in the QF PPA) onto the utility and its customers.[174]

In short, non-QF use of ERIS does not create the risk of unlimited cost-shifting that is created when a QF obtains ERIS. Unless the QF parties are offering to make their PPAs contingent on the utilities' ability to first conduct transmission service studies to ensure delivery costs are minimal before those PPAs are allowed to become effective, their proposal to use ERIS would impose an unreasonable financial risk on customers. When it comes to the ERIS issue, comparing non-QFs to QFs is comparing apples and oranges.

B. NRIS Remains the Most Efficient and Practical Way to Address QF Deliverability Issues.

All theoretical solutions offered by the ICC and NewSun that would allow QFs to obtain ERIS interconnection are beset with legal or implementation issues. Some ignore operational and financial realities, while others ignore fundamental PURPA obligations and requirements. The Joint Utilities continue to agree with Staff that NRIS is the most efficient way to identify deliverability limitations and the costs associated with a QF's chosen location in a timely manner.[175]

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[174] Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/35-36.

[175] The Commission has stated that utilities are to give QFs timely information about the costs associated with the development of their project where possible. *See* Order No. 19-322 at 16 ("We generally consider it reasonable for electric companies to complete the due diligence process before sending final draft executable contracts for signature by QFs. A utility should review significant proposed QF delivery terms as early as possible, and ideally well before providing a final draft executable contract.").

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If the Commission is interested in exploring ideas proffered by the ICC or NewSun, such as the ICC's proposal to implement interconnection procedures similar to the CSP process, the Commission should open an additional investigation. Such investigation would need to address complex timing and study issues related to the disconnect in timing between PPA negotiations and transmission service study requests, as well as other issues, which would presumably require modification to standard QF PPAs to make them contingent on the outcome of transmission service study requests.[176] It would also require QFs to make significant concessions in their PPAs to ensure risk factors are mitigated before those PPAs become fully effective. But implementation of PURPA policies involving these types of complex workarounds is likely to be fraught with complexities, impose significant additional burdens on transmission service providers already laboring to manage busy interconnection queues, and result in "even greater disputes, delays, and uncertainty."[177]

IV. CONCLUSION

The Commission should reaffirm its existing QF interconnection cost-allocation policies. These policies require QFs to obtain NRIS, the most efficient way to identify deliverability limitations and the costs associated with a QF's chosen location in a timely manner, and allocate the cost of Network Upgrades caused by a QF to the QF. These policies also allow a QF to be reimbursed for its Network Upgrades to the extent the QF demonstrates that the Network Upgrades provide "quantifiable system-wide benefits."[178] If the Commission agrees with the Joint Utilities'

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[176] *See, e.g., In re PacifiCorp dba Pac. Power Information Filing of Qualifying Facility Contracts or Summaries per OAR 860-029-0020(1)*, Docket RE 142, PacifiCorp's Informational Filing on Qualifying Facility Transactions - Skysol, LLC at 16-17, Section 4.2 (filed Apr. 24, 2020) (conditional designation as network resource (DNR) provision).
[177] *See, e.g.,* Joint Utilities/500, Vail-Bremer-Foster-Olennikov-Ellsworth/13-50
[178] Order No. 10-132 at 3.

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proposed implementation of the "quantifiable systemwide benefits test," the Commission could simply adopt the Joint Utilities' proposed implementation.

If the Commission wishes to further explore implementation of the "quantifiable systemwide benefits test" in Phase II, the Joint Utilities agree with other parties that Phase II of this docket would benefit from Commission guidance on the appropriate interpretation of that standard. In that event, the Commission should (1) provide guidance on the appropriate interpretation of the test, as discussed in this brief; (2) revise the description of Phase II to reflect that Phase II will focus on potential methods for implementation of the test. Regardless of whether the Commission concludes this docket after Phase I or desires to further consider the quantifiable systemwide benefits standard in Phase II, the Joint Utilities would support investigating whether it is possible to implement a cost-sharing mechanism among QFs for certain interconnection costs—either in Phase II or in a separate docket.

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